

AMENDED IN ASSEMBLY FEBRUARY 14, 2009

CALIFORNIA LEGISLATURE—2009–10 THIRD EXTRAORDINARY SESSION

Assembly Constitutional Amendment

No. 1

Introduced by Assembly Members Niello and Adams
(Principal coauthors: Senators Cogdill and Ashburn)

February 13, 2009

Assembly Constitutional Amendment No. 1—A resolution directing the Secretary of State to withdraw from the consideration of the people of the State of California Senate Constitutional Amendment No. 30 (Resolution Chapter 167 of the Statutes of 2008) and further directing the Secretary of State to make amendments in Senate Constitutional Amendment No. 13 (Resolution Chapter 144 of the Statutes of 2008).

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as amended, Niello. State finance.

Senate Constitutional Amendment No. 13 of the 2007–08 Regular Session, as amended by Senate Constitutional Amendment No. 30 of the 2007–08 Regular Session, would, if approved by the voters, make certain changes relating to state finance.

This measure would withdraw Senate Constitutional Amendment No. 30 from the consideration of the voters.

Senate Constitutional Amendment No. 13 of the 2007–08 Regular Session, if approved by the voters, would rename the Budget Stabilization Account the Budget Stabilization Fund and would provide that all moneys in the fund not designated for deposit into the Deficit Recovery Bond Retirement Sinking Fund Subaccount may be transferred to the General Fund by a statute that contains no unrelated provisions or may be loaned to the General Fund to address a General Fund cashflow deficit. That measure would further require the Director of

Finance, on or before May 29 of each year, to report to the Legislature and the Governor an estimate of the amount of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year and the impact of tax legislation adopted during the current fiscal year subsequent to the enactment of the Budget Bill. In addition, that measure would provide that if, pursuant to a formula based on those estimates, there are unanticipated revenues in the current fiscal year, those revenues may be used only for specified purposes, and in a specified order of priority.

This measure would amend those provisions to also create the Supplemental Budget Stabilization Account, and to establish the Supplemental Education Payment Account if a constitutional provision is added to provide for supplemental education payments, as specified. The measure would also provide that, apart from a transfer made for the purpose of responding to an emergency declared by the Governor, as defined, or a loan to meet General Fund cash requirements which would be repaid within a fiscal year, the total amount that may be transferred from the Budget Stabilization Fund to the General Fund for any fiscal year shall not exceed the amount derived by subtracting the General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year from the expenditure forecast amount for the current fiscal year, determined as total General Fund expenditures for the immediately preceding fiscal year adjusted for changes in population and the cost of living. In addition, this measure would direct the Controller to transfer, on October 1 of each year beginning in 2011, from the Budget Stabilization Fund to the Supplemental Education Payment Account, if established, a sum equal to 1.5% of the estimated General Fund revenues for the current fiscal year until a specified total amount is met. After that amount is met, or if the Supplemental Education Payment Account is not established, the Controller would instead be required to transfer that sum on October 1 of each year to the Supplemental Budget Stabilization Account, from which appropriations could be made only for capital outlay purposes or to retire bonded indebtedness of the state. This measure would further provide that, commencing with the 2010–11 fiscal year, unanticipated revenues shall be determined pursuant to a formula either based on estimates of General Fund revenues for the current fiscal year and the revenue forecast amount for the current fiscal year, as defined, or based on estimates of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year and the expenditure

forecast amount for the current fiscal year. The measure would also modify the education funding purposes for which unanticipated revenues could be expended.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Third
3 Extraordinary Session commencing on the fifth day of January
4 2009, two-thirds of the membership of each house concurring,
5 hereby directs the Secretary of State to withdraw from the
6 consideration of the people of the State of California Senate
7 Constitutional Amendment No. 30 of the 2007–08 Regular Session
8 (Resolution Chapter 167 of the Statutes of 2008); and be it further

9 *Resolved,* That the Legislature hereby directs the Secretary of
10 State to make amendments in Senate Constitutional Amendment
11 No. 13 of the 2007–08 Regular Session (Resolution Chapter 144
12 of the Statutes of 2008) by removing Sections 20 and 21 of Article
13 XVI of the Constitution, as proposed to be amended and added,
14 respectively, by that measure, and replacing those sections with
15 the following Sections 20 and 21:

16 Second—That Section 20 of Article XVI thereof is amended to
17 read:

18 SEC. 20. (a) (1) The Budget Stabilization Fund, and the
19 Supplemental Budget Stabilization Account, are hereby created
20 in the General Fund.

21 (2) If Section 8.3 is added to this article to provide for
22 supplemental education payments at the same election at which
23 this paragraph was approved by the voters, the Supplemental
24 Education Payment Account is hereby established in the General
25 Fund.

26 (b) In each fiscal year as specified in paragraphs (1) to (3),
27 inclusive, the Controller shall transfer from the General Fund to
28 the Budget Stabilization Fund the following amounts:

29 (1) No later than September 30, 2006, a sum equal to 1 percent
30 of the estimated amount of General Fund revenues for the 2006–07
31 fiscal year.

32 (2) No later than September 30, 2007, a sum equal to 2 percent
33 of the estimated amount of General Fund revenues for the 2007–08
34 fiscal year.

(3) On September 30, 2008, and on September 23 annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) Except for the amount determined pursuant to subdivision (h), the transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the Budget Stabilization Fund would exceed 12.5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the Budget Stabilization Fund amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Fund, the Supplemental Education Payment Account, or the Supplemental Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) Except for the amount determined pursuant to subdivision (h), the transfer of moneys from the General Fund to the Budget Stabilization Fund may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than the date of the transfer set forth in subdivision (b). For a fiscal year commencing on or after July 1, 2011, this subdivision shall be operative only if a transfer of moneys from the Budget Stabilization Fund to the General Fund is authorized pursuant to subparagraph (A) of paragraph (2) of subdivision (f).

(f) (1) Of the moneys transferred to the Budget Stabilization Fund in each fiscal year, exclusive of the amount determined pursuant to subdivision (h), 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the Budget Stabilization Fund for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired

1 shall be transferred to the Budget Stabilization Fund, and may be
2 transferred to the General Fund pursuant to paragraph (2).

3 (2) Except for the amount determined pursuant to subdivision
4 (h), all other funds transferred to the Budget Stabilization Fund in
5 a fiscal year shall not be deposited in the sinking fund subaccount
6 and may be transferred to the General Fund by statute as specified
7 in this paragraph.

8 (A) Apart from a transfer pursuant to subparagraph (B), the total
9 amount that may be transferred to the General Fund pursuant to
10 this paragraph for any fiscal year shall not exceed the amount
11 derived by subtracting the General Fund revenues, transfers, and
12 balances available from the prior fiscal year for that fiscal year
13 from the expenditure forecast amount for the current fiscal year.
14 For purposes of this subparagraph, “General Fund revenues,
15 transfers, and balances available from the prior fiscal year for that
16 fiscal year” does not include revenues transferred from the General
17 Fund to the Budget Stabilization Fund pursuant to subdivision (b)
18 for that fiscal year. For purposes of this subparagraph, Section 21,
19 and Section 12 of Article IV, “balances available from the prior
20 fiscal year for that fiscal year” means the funds in the Special Fund
21 for Economic Uncertainties, or a successor fund, as of June 30 of
22 the prior fiscal year. The “expenditure forecast amount” for a fiscal
23 year is the total General Fund expenditures for the immediately
24 preceding fiscal year adjusted for the change in population of the
25 State, as defined in Section 8 of Article XIII B, and the change in
26 the cost of living for the State, as measured by the California
27 Consumer Price Index, between the immediately preceding fiscal
28 year and the fiscal year in which the transfer is made. “Total
29 General Fund expenditures for the immediately preceding fiscal
30 year” do not include, for this purpose, the expenditure of
31 unanticipated revenues pursuant to subparagraph (B) or pursuant
32 to paragraph (3) or (4) of subdivision (c) of Section 21.

33 (B) Any funds necessary for the purpose of responding to an
34 emergency declared by the Governor may be transferred by statute.
35 For purposes of this subparagraph, “emergency” has the same
36 meaning as set forth in paragraph (2) of subdivision (c) of Section
37 3 of Article XIII B.

38 (g) In addition to any transfer authorized by this section, funds
39 in the Budget Stabilization Fund or the Supplemental Budget
40 Stabilization Account may be loaned to meet General Fund cash

1 requirements on the condition that the funds are repaid within the
2 same fiscal year in which the loan is made.

3 (h) If the Supplemental Education Payment Account is
4 established by subdivision (a), on October 1, 2011, and on October
5 1 annually thereafter, the Controller shall transfer from the Budget
6 Stabilization Fund to the Supplemental Education Payment
7 Account the lesser of the following:

8 (1) A sum equal to 1.5 percent of the estimated amount of
9 General Fund revenues for the current fiscal year.

10 (2) The amount of the total supplemental education payments
11 set forth in subdivision (a) of Section 8.3 remaining to be allocated.

12 (i) (1) If the Supplemental Education Payment Account is
13 established by subdivision (a), on October 1 of the first fiscal year
14 for which the amount determined pursuant to paragraph (1) of
15 subdivision (h) is greater than the amount determined pursuant to
16 paragraph (2) of subdivision (h), and on October 1 annually
17 thereafter, the Controller shall transfer from the Budget
18 Stabilization Fund to the Supplemental Budget Stabilization
19 Account a sum equal to 1.5 percent of the estimated amount of
20 General Fund revenues for the current fiscal year minus the amount,
21 if any, of the total supplemental education payments set forth in
22 subdivision (a) of Section 8.3 remaining to be allocated.

23 (2) If the Supplemental Education Payment Account is not
24 established by subdivision (a), on October 1, 2011, and on October
25 1 annually thereafter, the Controller shall transfer from the Budget
26 Stabilization Fund to the Supplemental Budget Stabilization
27 Account a sum equal to 1.5 percent of the estimated amount of
28 General Fund revenues for the current fiscal year.

29 (3) Funds in the Supplemental Budget Stabilization Account
30 may be appropriated only for the purposes set forth in
31 subparagraphs (B) or (C) of paragraph (4) of subdivision (c) of
32 Section 21.

33 Third—That Section 21 is added to Article XVI thereof, to read:

34 SEC. 21. (a) On or before May 29, 2011, and on or before
35 May 29 of each year thereafter, the Director of Finance shall do
36 all of the following, reporting the result in each case to the
37 Legislature and the Governor:

38 (1) Separately estimate General Fund revenues, transfers, and
39 balances available from the prior fiscal year for the current fiscal
40 year.

1 (2) Determine the revenue forecast amount for the current fiscal
2 year in the manner set forth in subdivision (d).

3 (3) Estimate the amount, as of that date, of any General Fund
4 obligations arising under Section 8 for the current fiscal year,
5 including any maintenance factor allocation for the current fiscal
6 year required pursuant to subdivision (e) of Section 8, that have
7 not yet been funded by the State.

8 (b) (1) Except as provided in paragraph (2), “unanticipated
9 revenues” for a fiscal year, for purposes of this section, shall be
10 the lesser of the following:

11 (A) Estimated General Fund revenues for the current fiscal year
12 reported pursuant to paragraph (1) of subdivision (a) minus the
13 revenue forecast amount for the current fiscal year.

14 (B) Estimated General Fund revenues, transfers, and balances
15 available from the prior fiscal year for the current fiscal year
16 reported pursuant to paragraph (1) of subdivision (a) minus the
17 expenditure forecast amount for the current fiscal year determined
18 pursuant to subparagraph (A) of paragraph (2) of subdivision (f)
19 of Section 20.

20 (2) If the amount determined pursuant to paragraph (1) is less
21 than zero, the amount of unanticipated revenues shall be zero.

22 (c) Unanticipated revenues, as determined pursuant to this
23 section, may be used only as follows:

24 (1) Unanticipated revenues shall be appropriated to satisfy any
25 unfunded General Fund obligations arising under Section 8 for the
26 current fiscal year, as estimated pursuant to paragraph (3) of
27 subdivision (a).

28 (2) Any unanticipated revenues that remain after deducting, in
29 accordance with paragraph (1), the amount of the estimate required
30 by paragraph (3) of subdivision (a) shall be transferred by the
31 Controller no later than June 27 of the current fiscal year to the
32 Budget Stabilization Fund, not exceeding the amount needed to
33 increase the balance in the fund to an amount equal to 12.5 percent
34 of the estimate of General Fund revenues as set forth in the enacted
35 budget bill for that fiscal year. Notwithstanding any other provision
36 of this Constitution:

37 (A) If the Director of Finance determines at any time that the
38 total amount of General Fund obligations arising under Section 8
39 for a fiscal year, including any maintenance factor allocation for
40 that fiscal year required pursuant to subdivision (e) of Section 8,

1 exceeds the total amount of those General Fund obligations as
2 calculated for that fiscal year for purposes of the estimate required
3 by paragraph (3) of subdivision (a), he or she shall so report to the
4 Legislature, the Governor, and the Controller. The Controller shall
5 thereupon transfer funds in the amount of that difference from the
6 Budget Stabilization Fund to the General Fund, and the funds so
7 transferred shall be appropriated only for purposes of funding the
8 additional amount of General Fund obligations under Section 8
9 determined pursuant to this paragraph.

10 (B) If the Director of Finance determines at any time that the
11 total amount of General Fund obligations arising under Section 8
12 for a fiscal year, including any maintenance factor allocation for
13 that fiscal year required pursuant to subdivision (e) of Section 8,
14 is less than the total amount of those General Fund obligations as
15 calculated for that fiscal year for purposes of the estimate required
16 by paragraph (3) of subdivision (a), he or she shall so report to the
17 Legislature, the Governor, and the Controller. The Controller shall
18 thereupon transfer funds in the amount of that difference from the
19 General Fund to the Budget Stabilization Fund, not exceeding the
20 amount needed to increase the balance in the latter fund to an
21 amount equal to 12.5 percent of the estimate of General Fund
22 revenues as set forth in the enacted budget bill for that fiscal year.

23 (3) Any unanticipated revenues remaining after any
24 appropriations and transfers described in paragraphs (1) and (2)
25 shall be appropriated to retire outstanding budgetary obligations.
26 For purposes of this paragraph, “budgetary obligations” means
27 any of the following:

28 (A) Unfunded prior fiscal year General Fund obligations
29 pursuant to Section 8.

30 (B) Any repayment obligations created by the suspension of
31 subparagraph (A) of paragraph (1) of subdivision (a) of Section
32 25.5 of Article XIII.

33 (C) Any repayment obligations created by the suspension of
34 subdivision (a) of Section 1 of Article XIX B.

35 (D) Bonded indebtedness authorized pursuant to Section 1.3.

36 (4) Any unanticipated revenues remaining after any
37 appropriations and transfers described in paragraphs (1), (2), and
38 (3) are made to retire all outstanding budgetary obligations shall
39 be used for one or more of the following purposes:

40 (A) Transfer by statute to the Budget Stabilization Fund.

1 (B) Appropriation for one-time infrastructure or other capital
2 outlay purposes.

3 (C) Appropriation to retire, redeem, or defease outstanding
4 general obligation or other bonded indebtedness of the State.

5 (D) Return to taxpayers within the current or immediately
6 following fiscal year by a one-time revision of tax rates, or by
7 rebates.

8 (E) Appropriation for unfunded liabilities for vested nonpension
9 benefits for state annuitants.

10 (d) For the 2010–11 fiscal year, and for each fiscal year
11 thereafter, the revenue forecast amount shall be determined as
12 follows:

13 (1) The General Fund revenues for the current fiscal year shall
14 be forecast by extrapolating from the trend line derived by a linear
15 regression of General Fund revenues as a function of fiscal year
16 for the period of the 10 preceding fiscal years. For purposes of this
17 paragraph, General Fund revenues shall exclude both of the
18 following:

19 (A) The General Fund revenue effect of a change in state taxes
20 that affects General Fund revenues for less than the entire period
21 of the 10 preceding fiscal years.

22 (B) Any proceeds of bonds authorized by subdivision (a) of
23 Section 1.3.

24 (2) The amount forecast pursuant to paragraph (1) shall be
25 increased or decreased, as applicable, to reflect the net current
26 fiscal year General Fund revenue effect of a change in state taxes
27 for which General Fund revenue effects were excluded pursuant
28 to subparagraph (A) of paragraph (1).

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